Supreme Court, U. S.
FILED
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MICHAEL RODAK, JR., CLERK

in the

Supreme Court of the United States

CASE NO. 76-629

C. CAREY MATTHEWS,
Petitioner,

vs.

UNITED STATES OF AMERICA,
Respondent.

MOTION TO STRIKE BRIEF FOR THE UNITED STATES IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

LAW OFFICES OF
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1680 N.E. 135th Street
North Miami, Florida 33181
Attorneys for Petitioner

FLORIDA FINANCIAL PRINTING, INC. — 377-2610

in the

Supreme Court of the United States

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COMES NOW the Petitioner, C. CAREY MATTHEWS, by and through his undersigned attorneys and moves to strike, as untimely, the Brief of the United States in Opposition to Petition for Writ of Certiorari, and in support thereof, avers:

1. On November 3, 1976, Petitioner filed with this Honorable Court his Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit.

2. On the 23rd day of December, 1976, counsel for the United States filed its request for extension of time to file the response Brief to the Petition for Writ of Certiorari, and said request was granted by the Court, extending the time for filing said Brief until January 11, 1977.

3. The Brief for the United States of America was not filed on or before January 11, 1977, in accordance with the Rules of this Honorable Court and its Order, but, on the contrary, it was placed in the mail on January 31, 1977, and actually received by counsel for the Petitioner on February 3, 1977.

4. Accordingly, without permission or Order of this Court, counsel for the Government has seen fit to ignore the Court's Order and the Supreme Court's Rules and has served its Brief in Opposition to Petition for Writ of Certiorari by placing the same in the U.S. Mail, twenty days after its time for doing so had expired by Order of this Court.

5. Accordingly, in the interest of justice, the Court should order stricken the Brief of the United States of

America in Opposition to Petition for Writ of Certiorari, as indeed, would be stricken the Brief of any Petitioner or Respondent other than the Government who saw fit to file Briefs in a fashion so untimely.

WHEREFORE, Petitioner, C. CAREY MATTHEWS, respectfully requests that this Honorable Court strike the Brief of the United States of America in Opposition to Petition for Writ of Certiorari, and that the Writ of Certiorari be granted, forthwith.

Respectfully submitted,

LAW OFFICES OF
LEO GREENFIELD, P.A.
1680 N.E. 135th Street
North Miami, Florida 33181
Attorneys for Petitioner

By_____
Leo Greenfield

CERTIFICATE OF MAILING

I HEREBY CERTIFY that a true copy of the foregoing was this 8th day of February, 1977, mailed to:

ROBERT W. RUST, ESQ.,
U.S. Attorney
Ainsley Bldg.
Miami, Florida

and

ROBERT H. BORK, ESQ.,
Solicitor General of the United States
Department of Justice
Washington, D.C. 20530

By_____
Leo Greenfield